



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,102	03/31/2004	Edward K. Y. Jung	SEI-0014-US	9902
80118 7590 05/17/2010 Constellation Law Group, PLLC P.O. Box 220 Tracyton, WA 98393				
EXAMINER				
SURVILLO, OLEG				
ART UNIT		PAPER NUMBER		
2442				
MAIL DATE		DELIVERY MODE		
05/17/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/816, 102

Applicant(s)

JUNG ET AL.

Examiner

OLEG SURVILLO

Art Unit

2442

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-42.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s): 12/18/09
13. ☒ Other: See Continuation Sheet.

/Philip C Lee/
Acting Supervisory Patent Examiner, Art Unit 2442

Continuation of 3.(a) NOTE: regarding the proposed amendment to claims 13-18 and 22-24, amendment to at least claims 14-18 and 22-24 changes the scope of the invention and requires further consideration. Examiner makes no statement whether additional search is required. As to claim 14, as exemplary claim, the proposed change is to have "means for transmitting" being broadly a part of the system instead of being specifically a part of said entity (now changed to device). In response to applicants' submission at page 1 of Remarks, it is noted that proposed amendments do not remove issues for consideration on appeal, and generally do not place the claims in better condition for appeal, for the reasons discussed below.

Continuation of 12. The information disclosure statement dated December 18, 2009 fails to comply with the provisions of 37 CFR 1.98 and MPEP § 609 because document listed under section U.S. Patent Application Documents is not identified by a U.S. Patent Application Publication Number, as required by column heading. As a result, this document has not been considered.

Continuation of 13. Other: regarding the rejection of claims 5, 13-25, 30, 33, and 36 under 35 USC 112, first paragraph, applicant's arguments have been fully considered but they are not persuasive. Therefore, the rejection is maintained. As to claim 5, applicants state that support for "indexes comprising addresses of content stored in a memory" is found in the specification at least on page 11, last par.; and page 17, first par. Examiner reviewed identified sections of the specification and found these sections completely unrelated to the argued limitation of "indexes comprising addresses of content stored in a memory". Therefore, the rejection is maintained.

As to claim 13, applicants state that support for "a device controlled by a second mote" is found in the specification at least on page 7, first full par. Examiner reviewed identified section of the specification and found this section completely unrelated to the argued limitation. In particular, none of light device 140, electrical/magnetic device 142, pressure device 144, temperature device 156, volume device 158, and inertial device 160, depicted at identified paragraph of the specification, are controlled by a mote to transmit an aggregate of mote-addressed content indexes, as claimed. Therefore, even if proposed amendment was entered the rejection would have been maintained.

As to dependent claims 14-24, proposed amendment changes the structure of the claimed system. In particular, as to claim 14, as exemplary claim, means for transmitting were previously a part of claimed "entity". As currently proposed, means for transmitting are broadly a part of the system and not necessarily part of the device. Therefore, such proposed amendment raises a question as to what structure corresponds to "means for transmitting" such that both the device and the means are performing said transmitting, as claimed. As to claims 25, 30, 33, and 36, examiner disagrees with applicants' conclusion that recitation of "transmitting content index that may contain content index from two differently addressed motes" in the specification suggests that "implicit in the content index is that the index excludes a content index from the mote that is transmitting". It appears that applicants rely on broad statements in the specification to argue limitations that are narrower than what is actually described.

Regarding the rejection of claims 39-42 under 35 USC 112, second paragraph, applicants argue that "when the indicated terms are given their plain meaning in view of the drawings/specification, the indicated terms would be understood by those having ordinary skill in the art". However, applicants are reminded that specification is completely silent with respect to the indicated terms and drawings merely recite claimed terms providing no hint as to what constitutes "a query command format", "control command format", and "a feedback format" such that this "format" is transmitted, even if given broadest reasonable interpretation and a "plain meaning". Therefore, the rejection is maintained.

Regarding the rejection of claims 1-42 under 35 USC 103(a), applicant's arguments have been fully considered but they are not persuasive. As to claim 1, applicants argue at pages 24-26 under B.1.a) that "Examiner has inadvertently ignored several express recitations of independent claim 1 and therefore has not met his burden to establish a prima facie case of unpatentability for independent claim 1". Examiner brings applicants' attention to page 9 of the last Office action where every limitation of independent claim 1 has been fully considered. Therefore, applicant's argument is not persuasive. Applicants argue at pages 27-39 under B.1.b) that "Examiner is characterizing Mulgund and/or Madden to "teach" the text of independent claim 1, but does not support his characterization, therefore, the examiner has not met his burden to establish a prima facie case of unpatentability for independent claim 1". Examiner disagrees and brings applicants' attention to the last Office action at page 9 where every limitation of claim 1 is mapped to a specific teaching in Mulgund and/or Madden, recitation of specific paragraphs and/or sections of Mulgund/Madden where such teaching is found, and motivation to combine teachings of Mulgund and Madden. Therefore, Examiner's burden has been fully met. Applicants are further reminded that there is no burden on Examiner to provide a reference that would recite the text of examined claims word for word. However, if applicants are aware of such requirement, they are requested to identify appropriate statute, rule, or section of MPEP in their next response. Applicants argue at pages 39-45 under B.1.c) that "Examiner-suggested modifications/combinations to meet the recitations of independent claim 1 are a "mere conclusory statement" without evidentiary support/change the principle of operation of components of cited references/render such components unfit for intended purpose; no teaching to combine/modify components as a matter of law". Examiner disagrees and brings applicants' attention to page 9 of the last Office action that provides a motivation statement followed by evidentiary support found in Madden reference. Regarding applicants' argument that "the proposed modification cannot change the principle of operation of a reference", it is noted that references are not to be combined literally. Furthermore, changing the principle of operation of Mulgund to perform in-network aggregation according to teachings of Madden does not require "substantial reconstruction" of nodes of Mulgund apart from reprogramming the nodes according to teachings of Madden, i.e., installation of TinyOS on each of the nodes of Mulgund.

As to claim 31, applicants argue at pages 46-47 that "each of these tables is defined" is not "content index indicates". Examiner disagrees. Defining each of Node Data Tables to accommodate the type of sensor data known to originate from that node, as taught by Mulgund, inherently requires content index that indicates an output format of information from the queried device. Therefore, applicant's argument is not persuasive. Applicants are reminded once again that a reference does not have to repeat claim language verbatim.

Regarding the rejection of independent claims 13, 25, and 26, applicants presented analogous arguments as those already discussed with respect to claim 1 and are not persuasive for analogous reasons.

As to any arguments not specifically addressed, they are the same as those discussed above.